



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2593

Introduced 1/20/2006, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

420 ILCS 40/36	from Ch. 111 1/2, par. 210-36
420 ILCS 40/38	from Ch. 111 1/2, par. 210-38
420 ILCS 40/39	from Ch. 111 1/2, par. 210-39

Amends the Radiation Protection Act of 1990. Authorizes the Agency to refuse to issue, suspend, or revoke (now, may suspend or revoke) a license or registration upon a finding of violation of the Act or rules. Modifies certain enforcement provisions to provide that Agency action under those provisions does not preclude the Agency from pursuing other authorized enforcement actions. Effective immediately.

LRB094 14578 RSP 49521 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Radiation Protection Act of 1990 is amended
5 by changing Sections 36, 38, and 39 as follows:

6 (420 ILCS 40/36) (from Ch. 111 1/2, par. 210-36)

7 (Section scheduled to be repealed on January 1, 2011)

8 Sec. 36. Order for violation abatement and public hearing.

9 Whenever the Agency believes upon examination of records or
10 inspection and examination of a radiation installation or a
11 radiation source as constructed, operated or maintained that
12 there has been a violation of any of the provisions of this Act
13 or any rules or regulations promulgated under this Act, the
14 Agency may:

15 (1) order the discontinuance of such violation;

16 (2) refuse to issue, suspend, or revoke a license or
17 registration issued by the Department of Nuclear Safety or
18 its successor agency, the Illinois Emergency Management
19 Agency;

20 (3) impose a civil penalty, not to exceed \$10,000 for
21 such violation, provided each day the violation continues
22 shall constitute a separate offense;

23 (4) order the decontamination of any property or
24 structure which has been contaminated as a result of such
25 violation;

26 (5) restrict access to any property which has been
27 contaminated as a result of such violation; or

28 (6) impound, order the impounding of, or confiscate
29 radiation sources possessed by operators or other persons
30 engaging in such violation and order the owner of the
31 radiation sources to reimburse the Agency for any costs
32 incurred by the Department of Nuclear Safety or the Agency

1 in conjunction with the transfer, storage, treatment or
2 disposal of the radiation sources.

3 The Agency shall also have the authority to take any of the
4 actions specified in paragraphs (4), (5) or (6) of this Section
5 if a licensee seeks to terminate a license issued by the
6 Department of Nuclear Safety or its successor agency, the
7 Illinois Emergency Management Agency, pursuant to this Act or
8 to otherwise abandon a radiation installation.

9 Any such actions by the Agency shall be based on standards
10 and procedures established by rules of the Agency. Under such
11 rules, the Agency may provide that all or a portion of the cost
12 of such actions be assessed to operators of radiation
13 installations or other persons responsible for the violation or
14 contamination.

15 The civil penalties and costs assessed under this Section
16 shall be recoverable in an action brought in the name of the
17 people of the State of Illinois by the Attorney General.

18 In any order issued to an offending party under this
19 Section, the Agency shall include a summary of its findings
20 which give evidence of the violation. Any party affected by an
21 order of the Department of Nuclear Safety or its successor
22 agency, the Illinois Emergency Management Agency, shall have
23 the right to a hearing before the Agency; however, a written
24 request for such a hearing shall be served on the Agency within
25 10 days of notice of such order. In the absence of receipt of a
26 request for hearing the affected party shall be deemed to have
27 waived his right to a hearing.

28 No order of the Agency issued under this Section, except an
29 order issued pursuant to Section 38 herein, shall take effect
30 until the Agency shall find upon conclusion of such hearing
31 that a condition exists which constitutes a violation of any
32 provision of this Act or any code, rule or regulation
33 promulgated under this Act except in the event that the right
34 to public hearing is waived as provided herein in which case
35 the order shall take effect immediately.

36 (Source: P.A. 94-104, eff. 7-1-05.)

1 (420 ILCS 40/38) (from Ch. 111 1/2, par. 210-38)

2 (Section scheduled to be repealed on January 1, 2011)

3 Sec. 38. Authority of Agency in cases constituting an
4 immediate threat to health.

5 (a) Notwithstanding any other provision of this Act,
6 whenever the Agency finds that a condition exists that
7 constitutes an immediate threat to health, the Agency is
8 authorized to do all of the following:

9 (1) Enter onto public or private property and take
10 possession of sources of radiation that pose an immediate
11 threat to health.

12 (2) Enter an order for abatement of a violation of any
13 provisions of this Act or any code, rule, regulation, or
14 order promulgated under this Act that requires immediate
15 action to protect the public health or welfare, which order
16 shall recite the existence of the immediate threat and the
17 findings of the Agency pertaining to the threat. The order
18 shall direct a response that the Agency determines
19 appropriate under the circumstances, including but not
20 limited to all of the following:

21 (A) Discontinuance of the violation.

22 (B) Decontamination of any property or structure
23 that has been contaminated as a result of the
24 violation.

25 (C) Restriction of access to property that has been
26 contaminated as a result of the violation.

27 (D) Impounding of radiation sources possessed by a
28 person engaging in the violation.

29 Such order shall be effective immediately but shall
30 include notice of the time and place of a public hearing
31 before the Agency to be held within 30 days of the date of
32 such order to assure the justification of such order. On
33 the basis of such hearing the Agency shall continue such
34 order in effect, revoke it or modify it. Any party affected
35 by an order of the Agency shall have the right to waive the

1 public hearing proceedings.

2 (3) Direct the Attorney General to obtain an injunction
3 against any person responsible for causing or allowing the
4 continuance of the immediate threat to health.

5 (b) In responding to an immediate threat to health, as
6 defined in subsection (a), the Agency is authorized to request
7 the assistance of other units of government, including agencies
8 of the federal government, and to assume reasonable costs of
9 other units of government as agreed by the Agency. The Agency
10 is authorized to assess the costs of its response and the
11 response of its predecessor agency, the Department of Nuclear
12 Safety, against the person or persons responsible for the
13 creation or continuation of the threat. The costs may include
14 costs for personnel, equipment, transportation, special
15 services, and treatment, storage, and disposal of sources of
16 radiation, including costs incurred by the Agency or the
17 Department and costs incurred by other units of government that
18 assist the Agency or the Department. If the Agency is unable to
19 determine who is responsible for the creation or continuation
20 of the threat, the costs shall be assessed against the owner of
21 the property and shall constitute a lien against the property
22 until paid. Any person assessed costs under this subsection
23 shall have the right to a hearing before the Agency provided a
24 written request for a hearing is served on the Agency within 10
25 days of notice of the assessment. In the absence of receipt of
26 a request for a hearing, the affected party shall be deemed to
27 have waived the right to a hearing.

28 (c) Nothing in this Section shall preclude the Agency from
29 taking appropriate enforcement action as specified in Section
30 36 against an individual or facility.

31 (Source: P.A. 94-104, eff. 7-1-05.)

32 (420 ILCS 40/39) (from Ch. 111 1/2, par. 210-39)

33 (Section scheduled to be repealed on January 1, 2011)

34 Sec. 39. Violations.

35 (a) Any person who shall violate any of the provisions of,

1 or who fails to perform any duty imposed by this Act, or who
2 violates any determination or order of the Department of
3 Nuclear Safety or its successor agency, the Illinois Emergency
4 Management Agency, promulgated pursuant to this Act, is guilty
5 of a Class A misdemeanor; provided each day during which a
6 violation continues shall constitute a separate offense; and in
7 addition thereto, such person may be enjoined from continuing
8 such violation as hereinafter provided.

9 (b) (1) A person who knowingly makes a false material
10 statement to a Department of Nuclear Safety or Agency
11 employee during the course of official Department or Agency
12 business or in an application for accreditation,
13 certification, registration, or licensure under this Act
14 is guilty of a Class A misdemeanor for a first offense and
15 is guilty of a Class 4 felony for a second or subsequent
16 offense.

17 (2) A person who knowingly alters a credential,
18 certificate, registration, or license issued by the
19 Department of Nuclear Safety or its successor agency, the
20 Illinois Emergency Management Agency, for the purpose of
21 evading a requirement of this Act is guilty of a Class A
22 misdemeanor for a first offense and is guilty of a Class 4
23 felony for a second or subsequent offense.

24 (c) The criminal penalties provided herein shall be
25 recoverable in an action brought in the name of the People of
26 the State of Illinois by the Attorney General.

27 (d) No part of this Section precludes the Agency from
28 taking enforcement action against an individual or facility for
29 falsification of documents or making material false statements
30 to the Agency. The Agency may take any action specified in
31 Section 36 of this Act.

32 (Source: P.A. 94-104, eff. 7-1-05.)